

Before the
Federal Communications Commission
Washington, D.C. 20554

SEP 27 9 15 PM '05

In the matter of)

)
Amendment of Section 73.202(b)
FM Table of Allotments,
FM Broadcast Stations.
(Big Pine Key, Florida)

)
MB Docket No. 04-248
RM-10990
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)

MEMORANDUM OPINION AND ORDER

Adopted: September 23, 2005

Released: September 26, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a Petition for Reconsideration filed by Call Communications Group ("Petitioner"), directed to the *Report and Order* issued in this proceeding.¹ No comments or oppositions were filed in response to the Petition for Reconsideration.

2. **Background.** The *Report and Order* dismissed the Petition for Rule Making requesting the reservation for Channel *239A at Big Pine Key, Florida for noncommercial educational ("NCE") use because no comments were received from the Petitioner, or any other party, supporting the NCE reservation. The *Report and Order* indicated that a showing of continuing interest is required before a channel will be reserved for NCE use in compliance with the *Appendix to the Notice*.² As such, the *Report and Order* stated that the Commission will not reserve a channel for NCE use to a community absent an expression of interest.

3. **Petition for Reconsideration.** The Petitioner filed a Petition for Reconsideration stating that the entity admits its failure to file comments reiterating its expression of interest in the NCE reservation of Channel *239A at Big Pine Key by the comment deadline in this proceeding. However, it continues to maintain great interest in applying for Channel *239A at Big Pine Key, if reserved for NCE use. Petitioner states that the reservation would provide the community with new NCE programming. Petitioner indicates that it already owns the necessary transmission equipment to broadcast NCE programming on Channel *239A at Big Pine Key. Thus, Petitioner requests the reservation of Channel *239A at Big Pine Key for NCE use.

4. **Discussion.** We will accept the Petitioner's late-filed expression of interest because the proceeding is uncontested and no prejudice would occur to other parties.³ Accordingly, we will grant the Petition for Reconsideration by reserving Channel *239A at Big Pine Key, Florida for NCE use. As stated in the *Notice*, the reference coordinates for Channel *239A at Big Pine Key, Florida are 24-40-00 North Latitude and 81-21-00 West Longitude.

¹ See *Big Pine Key, Florida*, 20 FCC Rcd 4326 (MB 2005).

² See *Big Pine Key, Florida*, 19 FCC Rcd 12789 (MB 2004) ("*Notice*").

³ See *Santa Isabel, Puerto Rico*, 3 FCC Rcd 2336 (1998), *aff'd*, 4 FCC Rcd 3412 (1989); *aff'd. sub non. Amor Family Broadcasting v. FCC*, 918 F.2d 960 (D.C. Cir. 1990).

5. The Commission will send a copy of this *Memorandum Opinion and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

6. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective November 10, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the community listed below, to read as follows:

Communities

Channel No.

Big Pine Key, Florida

*239A, 281C1

7. The window period for filing NCE applications for Channel *239A at Big Pine Key, Florida will not be opened at this time. Instead, the issue of opening an NCE filing window for this allotment will be addressed by the Commission in a subsequent order.

8. IT IS ORDERED, That the Petition for Reconsideration filed by Petitioner IS GRANTED.

9. IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau